

Message Text

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ACTION AF-08

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FM AMEMBASSY NAIROBI
TO SECSTATE WASHDC 1569

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E.O. 11652: N/A
TAGS: EINV, KE
SUBJECT: SAUL CLAIM

REF: STATE 190167

1. DCM MET WITH SAUL'S LAWYER, MICHAEL ARONSON, AUGUST 3 TO SEEK INFORMATION REQUESTED BY REFTEL. SINCE STATE 193150 INDICATED THAT DEPARTMENT NOW HAS COPIES OF WOODTLI AND PIAT REPORTS, THESE WERE NOT REQUESTED. ARONSON SAID HE DID NOT KNOW WHETHER INDEPENDENT GOK VALUATION OF MINE, WHICH EMBASSY HAD REPORTED EARLIER, WAS IN FACT CARRIED OUT.

2. RE QUERY PARA THREE REFTEL, ARONSON CONFIRMED THAT GOK HAD AGREED TO FACILITATED WOODTLI'S STUDY BY TRANSPORTING WOODTLI TO MINING SITE. HE ACKNOWLEDGED, HOWEVER, THAT THIS DOES NOT NECESSARILY IMPLY GOK COMMITMENT TO ACCEPT FINDING OF STUDY.

3. ARONSON THEN REVIEWED CURRENT STATUS OF NEGOTIATIONS WITH GOK ON SAUL'S CLAIM. HE SAID THERE ARE

TWO MAJOR UNRESOLVED PROBLEMS: (1) GOK'S UNWILLINGNESS TO RELEASE 24 TONS OF GEM STONES WHICH SAUL HAD HIDDEN IN KENYA BEFORE HIS DEPORTATION, AND (2) UNWILLINGNESS OF GOK TO DATE TO OFFER ADEQUATE COMPENSATION FOR SAUL'S CLAIM. RE FIRST PROBLEM, HE SAID SAUL'S HIDDEN ASSETS HAD BEEN VALUED AT
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\$500,000 BY WOODTLI ON BASIS OF WEIGHT (WITHOUT

WOODTLI HAVING SEEN GEM STONES). WHILE SAUL WILLING TO PAY \$500,000 TO COVER COST OF EXPORTING THESE GEM STONES, AS WELL AS 45 PERCENT GOK TAX, GOK HAS THUS FAR BEEN UNWILLING TO APPROVE EXPORT OF THESE GEMS WITHOUT FIRST SEEING THEM.

4. ARONSON SAID SECOND PROBLEM OF INADEQUACY OF GOK COMPENSATION OFFER MORE IMPORTANT. HE SAID GOK HAS THUS FAR OFFERED SAUL ONLY EQUIVALENT OF ABOUT \$250,00, WHEREAS SAUL IS CLAIMING \$3.5 MILLION, ALTHOUGH WILLING TO SETTLE FOR ABOUT \$1.8 MILLION. ARONSON DOUBTS THAT MINISTRY OF NATURAL RESOURCES PERMSEC OMINO, WITH WHOM HE HAS BEEN NEGOTIATING ON THIS CASE, WILL BE ABLE TO OBTAIN SUFFICIENT FUNDS FROM GOK TO OFFER MUCH IF ANY MORE THAN INITIAL OFFER. HE, THEREFORE, BELIEVES NEW APPROACH TO COMPENSATION PROBLEM MUST BE MADE.

5. ARONSON'S NEW APPROACH WOULD CONSIST OF ENCOURAGING FORMATION OF CORPORATION JOINTLY OWNED BY GOK OR GOK CONTROLLED ENTITY AND AMERICAN MANAGER, SUCH AS SAUL'S PARTNER MILLER. CORPORATION WOULD OWN AND BE RESPONSIBLE FOR EXPLOITATION OF RUDY MINE AND MARKETING OF OUTPUT. SAUL'S CLAIM COULD EASILY BE SETTLED OUT OF PROFITS FROM OPERATIONS OF THIS CORPORATION. ACCORDING TO WOODTLI REPORT, MINE SHOULD PRODUCE OVER PERIOD OF ABOUT 15 YEARS GEM STONES WORTH SOME \$48 MILLION; HOWEVER, THIS RESULT CANNOT BE ACHIEVED WITHOUT HIGHLY SOPHISTICATED GEOLOGICAL EXPERTISE SUCH AS SAUL AND MILLER POSSESS. ARONSON SAID GOK WOULD, THEREFORE, BE WILLING TO ALLOW MILLER TO RETURN TO KENA (BUT PROBABLY NOT SAUL) AS CONSULTANT TO OR MANAGER OF CORPORATION FORMED TO EXPLOIT MINE. ARONSON SAID SAUL HAD ESTIMATED THAT TOTAL MINING COSTS (LABOR, TRANSPORTATION, SECURITY, ETC.) WOULD AMOUNT TO ONLY ABOUT 30 PERCENT OF GROSS VALUE OF OUTPUT THEREBY LEAVING GREAT POTENTIAL FOR PROFIT BY CORPORATION AFTER SETTLEMENT OF SAUL'S CLAIM.

6. WHEN DCM ASKED WHETHER ARONSON HAD PUT FORWARD LIMITED OFFICIAL USE

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THIS PROPOSAL TO GOK AUTHORITIES, LATTER RESPONDED IN NEGATIVE AND SAID HE THOUGHT IT WOULD BE MORE EFFECTIVE FOR EMBASSY TO FLOAT THIS PROPOSAL. DCM MADE NO COMMITMENT EXCEPT TO DISCUSS WITH AMBASSADOR.

7. FROM AMBASSADOR: WHILE ARONSON'S SUGGESTION MIGHT HAVE MERIT, WE DO NOT REPEAT NOT THINK IT WOULD BE APPROPRIATE FOR EMBASSY TO TRY TO "SELL" IDEA TO

GOK OR TO SOME GOK PARASTATAL CORPORATION SUCH AS
ICDC. IN FIRST PLACE, WE HAVE NO BASIS FOR JUDGING
WHETHER INITIAL GOK OFFER TO SAUL IS INDEED UNFAIRLY
LOW. SIMILARLY, WE HAVE NO BASIS FOR KNOWING WHAT
"FAIR" OFFER WOULD BE. WE WOULD THINK, THEREFORE,
THAT NEGOTIATIONS FOR EVENTUAL SETTLEMENT SHOULD
CONTINUE TO BE BETWEEN SAUL'S LAWYER AND GOK OR
ENTITIES UNDER CONTROL OF GOK. WOULD APPRECIATE
DEPARTMENT'S COMMENTS AND GUIDANCE.
MARSHALL

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